

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRIAN KAMEDULA, } Case No. 3:10-cv-00160-ECR-RAM
vs. }
Plaintiff, } ORDER
ROBERT BANNISTER, et al., }
Defendants. }

On June 14, 2011, the Magistrate Judge filed a Report and Recommendation (#35) recommending that Defendants' Partial Motion to Dismiss (#31) be granted.

20 Plaintiff has filed Objections (#36) to the Report and Recommendation
21 (#35). Defendants filed their Response to Plaintiff's Objections (#37) on July 5,
22 2011. We agree with the finding of the Magistrate Judge that Plaintiff's Fifth
23 Amendment claim should be dismissed for failure to state a claim because no
24 federal actors are alleged to have been involved. The State of Nevada and the
25 Nevada Department of Corrections must be dismissed from this case because
26 they are not "persons" for the purposes of 42 U.S.C. § 1983. Plaintiff's state law
27 claims for medical and dental malpractice should be dismissed for failure to
28 comply with Nevada Revised Statutes § 41A.071. Plaintiff's claim of deliberate

1 indifference is barred by the appropriate statute of limitations. Finally, Plaintiff's
2 Eighth and Fourteenth Amendment claims should be dismissed for failure to
3 exhaust administrative remedies.

4 The Report and Recommendation of the Magistrate Judge is well taken
5 and is APPROVED and ADOPTED. Therefore, IT IS ORDERED that
6 Defendants' Partial Motion to Dismiss (#31) is GRANTED.

7 The Clerk shall enter judgment accordingly.

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9 Dated this 12th day of July 2011.

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12 EDWARD C. REED, JR.
13 United States District Judge
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